



Law Society  
of Scotland

# Consultation Response

## Wildlife Management and Muirburn (Scotland) Bill

5 May 2023



## Introduction

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The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful, and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Rural Affairs sub-committee welcomes the opportunity to consider and respond to the Scottish Parliament's Rural Affairs and Islands Committee's call for views: Wildlife Management and Muirburn (Scotland) Bill (the "**Bill**").<sup>1</sup> The sub-committee has the following comments to put forward for consideration.

## General Remarks

We welcome the introduction of the Bill. Our comments below follow our response to the Scottish Government's consultation on Wildlife Management in Scotland in December 2022 (the "**Consultation Response**").<sup>2</sup> As noted in that response, the law relating to wildlife in Scotland is fragmented over a number of statutes, often themselves amended on multiple occasions, and as a result, is particularly complex. Legislative efforts in this area to consolidate the law, make it clearer, and provide certainty for individuals and businesses is welcomed. Notwithstanding our specific comments below, we remain of the view that there is a potential to consider wildlife protection, particularly in the rural sector, as part of the approach to land reform and management more generally.

## Glue traps

### Q1. Do you agree with the proposed ban on the use and purchase of glue traps (sections 1-3)?

#### Don't know

We welcome the proposed ban as set out in sections 1 to 3 of the Bill. As the use of glue traps cause unnecessary suffering and pose wider animal welfare risks given their indiscriminate nature, a ban on their use is appropriate.

We note that analogous provisions were included in the Glue Traps (Offences) Act 2022, which received royal assent last year.

We also consider that it is appropriate for the purchase or acquisition of glue traps, without a reasonable excuse, to constitute an offence and be included within the scope of the Bill. We would recommend, however, that the drafting at section 2, subsection (2) is clarified so that subsection (1) applies if such a trap is brought

<sup>1</sup> [Wildlife Management and Muirburn \(Scotland\) Bill - Scottish Parliament - Citizen Space](#)

<sup>2</sup> <https://www.lawscot.org.uk/media/373947/22-12-14-env-rur-consultation-wildlife-management-in-scotland.pdf>

back into Scotland following its purchase. As presently drafted, it appears that a glue trap could be purchased online and delivered outwith Scotland for use, which would satisfy the requirements of section 2(2)(a)-(b). If, however, the purchaser then brought the trap into Scotland and it had not been used, we do not consider that it would be appropriate for this exemption to apply in these circumstances. We do not anticipate that this is the policy intention either.

If such legislative provisions come into force, it is important that there is clarity and certainty in the law in order that individuals and businesses can guide their conduct appropriately. Any changes to the policy and legislative framework on this matter would merit an appropriate awareness-raising campaign so as to make individuals and businesses aware of the revised provisions.

## **Wildlife traps**

### **Q2. Do you agree there is a need for additional regulation of the use of certain wildlife traps?**

#### **Don't know**

We welcome the additional regulation on the use of certain wildlife traps, as provided for at sections 4 and 5 of the Bill, as applicable to the use of traps in the wild. The existing law in this regard is unclear and inconsistent, and so measures to simplify the regime is welcome.

However, we would recommend consideration of whether it is necessary for provisions to extend to the use of such traps in a domestic setting by an individual landowner, particularly given the increased bureaucratic burden on such persons.

As a more general observation in relation to the various licence regimes introduced or extended by the Bill, we note that having separate licensing regimes for different activities risks the creation of unintended consequences given the potential for interactions with other land management and use matters, and the potential confusion for those operating in the sector.

### **Q3. Do you agree with the proposed licensing system for the use of certain wildlife traps (sections 4-5)?**

#### **Don't know**

Please see our response to Q2.

## **Licensing scheme for land used to shoot red grouse**

### **Q4. Do you agree there is a need for additional regulation of land to be used to shoot red grouse?**

#### **Don't know**

Any legislative or regulatory measures should be informed and supported by a robust evidence base, policy analysis, and be a proportionate response to the intended aims.

We refer to our comments at Section 1, question 1 of the Consultation Response, in particular that licensing itself may not act as a deterrent for raptor persecution and wildlife crime – although it will turn greater attention on landowners, which may help to bring these issues into focus. In itself, we do not consider that the introduction of a licensing regime will fully resolve these issues, and this will need to be supported by enforcement and information sharing generally. In addition, it is important to consider the whole way in which the grouse moor landscape is managed, not just wildlife crime.

We would highlight that the increased bureaucratic burden risks being disproportionate, particularly given the limited scope of the proposed additional regulation at present.

**Q5. Do you agree with the proposed licensing system for land to be used to shoot red grouse (sections 6-7)?**

**Don't know**

We note that Section 7 of the Bill, which inserts a new section 16AA after section 16 of the Wildlife and Countryside Act 1981, provides that such a licence “may be granted or renewed for a period not exceeding 1 year”. We refer to our concerns regarding the term of such a licence noted at Section 1, question 8 of the Consultation Response, in particular that we consider that a maximum one-year period for a licence has the potential to be unduly burdensome for both the licensing authority, applicants seeking a licence and potential consultees such as Police Scotland and others. This however depends on the procedure involved – if an application for renewal is straightforward, this may limit the burden on all parties.

In addition, a maximum one-year period does not give a great deal of certainty to those operating in this sector, with many people booking shooting activities well in advance. In this regard, a longer period, such as three or five years may be more appropriate. With a longer licence period, there would still be an opportunity for the regulator to intervene if necessary. If licences were to be granted for a longer period, we consider that it would be appropriate for powers to be in place to review and alter the licence if appropriate. We recognise that granting licences for a maximum of one-year supports adaption and changes being made to the licence at renewal if appropriate.

Alternatively, there are other licensing regimes, for example civic licensing, that use a three-year timescale which can be reduced to one-year depending on the circumstances. This may offer a more flexible approach than limiting to a maximum of one-year.

We note that there may be benefits to dovetailing licensing requirements with the proposed requirements for management plans as set out in the recent Land Reform consultation.

## **Additional powers to investigate wildlife crime**

**Q6. Do you agree with the proposal to give the Scottish SPCA additional powers to investigate wildlife crime (section 8)?**

**No**

We note that the proposal would extend the existing investigation powers of inspectors appointed under section 49(2)(a) of The Animal Health and Welfare (Scotland) Act 2006 to include the investigation of offences under Part 1 of Bill and Part 1 of The Wildlife and Countryside Act 1981.

We consider that the most appropriate bodies for law enforcement and prosecution in Scotland of the offences under the Bill are Police Scotland and COPFS respectively. Whilst we note the current investigation powers of the Scottish SPCA in relation to specific animal welfare issues, we would not generally consider it appropriate that wider criminal investigation powers would be extended to it, particularly given its role and function as a registered charity.

## **Licensing scheme for muirburn**

**Q7. Do you agree there is a need for additional regulation for muirburn?**

**Don't know**

We consider that extending the existing licensing regime will ensure greater control over muirburn and has the potential to develop greater information about its impacts.

We would, however, highlight the existing legislation governing the making of muirburn, which is supplemented by the Muirburn Code. Whilst we welcome updated, clearer, or consolidated legislation, given the existing legislative provisions governing this area we are unsure whether further statutory provisions are needed.

**Q8. Do you agree with the proposed licensing system for muirburn (sections 9-19)?**

**Don't know**

Please see our response to Q7.

**For further information, please contact:**

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